

AMENDED IN ASSEMBLY JUNE 12, 2006

AMENDED IN SENATE MAY 9, 2006

AMENDED IN SENATE MAY 1, 2006

AMENDED IN SENATE APRIL 26, 2006

SENATE BILL

No. 1849

Introduced by Committee on Business, Professions and Economic Development (Senators Figueroa (Chair), Aanestad, Florez, Morrow, and Simitian)

March 23, 2006

An act to amend Sections 8726, 8771, 9882, 9884.7, 10232, 10232.4, 22351.5, and 22355 of, and to repeal Sections 7612, 9610, and 19161 of, the Business and Professions Code, and to amend Sections 44024.5 and 44062.1 of the Health and Safety Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1849, as amended, Committee on Business, Professions and Economic Development. Professions and vocations: ~~land surveying; process servers.~~

(1) *Existing law requires the Cemetery and Funeral Bureau to conduct a comprehensive study on the need to regulate third-party casket retailers and on the need for the regulation of proprietary employees of religious corporations, churches, religious societies, and religious denominations, and to report to the Department of Consumer Affairs and to the Joint Committee on Boards, Commissions, and Consumer Protection by September 1, 2004.*

This bill would repeal these provisions.

(2) Existing law provides for the licensing and regulation of professional engineers and land surveyors by the Board of Professional Engineers and Land Surveyors in the Department of Consumer Affairs. Existing law specifies that a person practices land surveying when he or she does or offers to do, among other things, certain acts regarding the earth's surface or relative fixed objects and geodetic or cadastral surveying. Existing law makes practicing or offering to practice land surveying without legal authorization a crime.

This bill would revise the acts that constitute the practice of land surveying to include making certain determinations regarding the earth or relative fixed objects by applying geodesy and ~~certifying~~ *rendering a statement regarding* the accuracy of maps or measured survey data. The bill would also revise the definition of geodetic or cadastral surveying.

Because this bill would expand the definition of land surveying, the unauthorized practice or offer to practice of which is a crime, it would impose a state-mandated local program.

~~(2)~~

(3) *Existing law, the Automotive Repair Act, establishes in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. Existing law authorizes the director to refuse to validate, or to temporarily or permanently invalidate, the registration of an automotive repair dealer for specified acts or omissions related to the conduct of the business of the automotive repair dealer.*

This bill would make technical changes to those provisions.

(4) *Existing law, the Real Estate Law, exempts personal property brokers, commercial finance lenders, and consumer finance lenders from certain reporting and disclosure requirements relative to loans secured by real property.*

This bill would delete personal property brokers, commercial finance lenders, and consumer finance lenders from these exemptions and instead provide that finance lenders are exempt from the reporting and disclosure requirements.

(5) *Existing law, the Home Furnishings and Thermal Insulation Act, requires all mattresses and box springs manufactured for sale in this state to be fire retardant. Existing law requires the Bureau of Home Furnishing and Thermal Insulation to adopt regulations by January 1, 2004, requiring that fire retardant mattresses and box springs meet a specified resistance to open flame test.*

This bill would repeal these provisions.

(6) Existing law requires process servers to be registered with the county clerk of the county in which he or she resides or has a principal place of business. Existing law requires a process server, at the time of filing an initial certificate of registration, to also submit 2 completed fingerprint cards for submission to the Department of Justice and the Federal Bureau of Investigation in order to verify that the process server has not been convicted of a felony.

This bill would require a process server, at the time of filing an initial certificate of registration, to submit a completed Request for Live Scan form instead of the fingerprint cards, and would make related changes.

~~(3)~~

(7) *Existing law requires the Department of Consumer Affairs to compile and maintain statistical and emission profiles of motor vehicles that are subject to the motor vehicle inspection program. Existing law authorizes the department to conduct a pilot program to except specified vehicles from certain biennial certification requirements. Existing law requires the department as part of the pilot program to, by June 30, 2000, evaluate standards for the operation of remote sensing equipment.*

Existing law requires the department to offer a repair assistance program for certain individuals who have failed a smog check inspection. Existing law requires the department to collect data, develop information, and report to the Legislature by April 1, 1999, on the repair assistance program.

This bill would delete these provisions that were required to be completed by June 30, 2000, and April 1, 1999.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 7612 of the Business and Professions*
2 *Code is repealed.*

3 ~~7612. The bureau shall do all of the following:~~

4 ~~(a) Conduct a comprehensive study of the need to regulate~~
5 ~~third-party easket retailers.~~

6 ~~(b) Report to the department and the Joint Committee on~~
7 ~~Boards, Commissions, and Consumer Protection on or before~~
8 ~~September 1, 2004, on the matter.~~

9 SECTION 1.

10 SEC. 2. Section 8726 of the Business and Professions Code is
11 amended to read:

12 8726. A person, including any person employed by the state
13 or by a city, county, or city and county within the state, practices
14 land surveying within the meaning of this chapter who, either in
15 a public or private capacity, does or offers to do any one or more
16 of the following:

17 (a) Locates, relocates, establishes, reestablishes, or retraces the
18 alignment or elevation for any of the fixed works embraced
19 within the practice of civil engineering, as described in Section
20 6731.

21 (b) Determines the configuration or contour of the earth's
22 surface, or the position of fixed objects above, on, or below the
23 surface of the earth by making geometric measurements or by
24 applying the principles of mathematics, geodesy, or
25 photogrammetry.

26 (c) Locates, relocates, establishes, reestablishes, or retraces
27 any property line or boundary of any parcel of land, right-of-way,
28 easement, or alignment of those lines or boundaries.

29 (d) Makes any survey for the subdivision or resubdivision of
30 any tract of land. For the purposes of this subdivision, the term
31 "subdivision" or "resubdivision" shall be defined to include, but
32 not be limited to, the definition in the Subdivision Map Act
33 (Division 2 (commencing with Section 66410) of Title 7 of the
34 Government Code) or the Subdivided Lands Law (Chapter 1
35 (commencing with Section 11000) of Part 2 of Division 4 of this
36 code).

37 (e) By the use of the principles of land surveying determines
38 the position for any monument or reference point which marks a

1 property line, boundary, or corner, or sets, resets, or replaces any
2 monument or reference point.

3 (f) Geodetic or cadastral surveying. As used in this chapter,
4 geodetic surveying means performing surveys, in which account
5 is taken of the figure and size of the earth to determine or
6 predetermine the horizontal or vertical positions of fixed objects
7 thereon or related thereto, geodetic control points, monuments, or
8 stations for use in the practice of land surveying or for stating the
9 position of fixed objects, geodetic control points, monuments, or
10 stations by California Coordinate System coordinates.

11 (g) Determines the information shown or to be shown on any
12 map or document prepared or furnished in connection with any
13 one or more of the functions described in subdivisions (a), (b),
14 (c), (d), (e), and (f).

15 (h) Indicates, in any capacity or in any manner, by the use of
16 the title “land surveyor” or by any other title or by any other
17 representation that he or she practices or offers to practice land
18 surveying in any of its branches.

19 (i) Procures or offers to procure land surveying work for
20 himself, herself, or others.

21 (j) Manages, or conducts as manager, proprietor, or agent, any
22 place of business from which land surveying work is solicited,
23 performed, or practiced.

24 (k) Coordinates the work of professional, technical, or special
25 consultants in connection with the activities authorized by this
26 chapter.

27 (l) Determines the information shown or to be shown within
28 the description of any deed, trust deed, or other title document
29 prepared for the purpose of describing the limit of real property
30 in connection with any one or more of the functions described in
31 subdivisions (a) to (f), inclusive.

32 (m) Creates, prepares, or modifies electronic or computerized
33 data in the performance of the activities described in subdivisions
34 (a), (b), (c), (d), (e), (f), (k), and (l).

35 (n) ~~Certifies~~ *Renders a statement regarding* the accuracy of
36 maps or measured survey data.

37 Any department or agency of the state or any city, county, or
38 city and county that has an unregistered person in responsible
39 charge of land surveying work on January 1, 1986, shall be
40 exempt from the requirement that the person be licensed as a land

1 surveyor until the person currently in responsible charge is
2 replaced.

3 The review, approval, or examination by a governmental entity
4 of documents prepared or performed pursuant to this section shall
5 be done by, or under the direct supervision of, a person
6 authorized to practice land surveying.

7 ~~SEC. 2.~~

8 *SEC. 3.* Section 8771 of the Business and Professions Code is
9 amended to read:

10 8771. (a) Monuments set shall be sufficient in number and
11 durability and efficiently placed so as not to be readily disturbed,
12 to assure, together with monuments already existing, the
13 perpetuation or facile reestablishment of any point or line of the
14 survey.

15 (b) When monuments exist that control the location of
16 subdivisions, tracts, boundaries, roads, streets, or highways, or
17 provide horizontal or vertical survey control, the monuments
18 shall be located and referenced by or under the direction of a
19 licensed land surveyor or registered civil engineer prior to the
20 time when any streets, highways, other rights-of-way, or
21 easements are improved, constructed, reconstructed, maintained,
22 resurfaced, or relocated, and a corner record or record of survey
23 of the references shall be filed with the county surveyor. They
24 shall be reset in the surface of the new construction, a suitable
25 monument box placed thereon, or permanent witness monuments
26 set to perpetuate their location if any monument could be
27 destroyed, damaged, covered, or otherwise obliterated, and a
28 corner record or record of survey filed with the county surveyor
29 prior to the recording of a certificate of completion for the
30 project. Sufficient controlling monuments shall be retained or
31 replaced in their original positions to enable property,
32 right-of-way and easement lines, property corners, and
33 subdivision and tract boundaries to be reestablished without
34 devious surveys necessarily originating on monuments differing
35 from those that currently control the area. It shall be the
36 responsibility of the governmental agency or others performing
37 construction work to provide for the monumentation required by
38 this section. It shall be the duty of every land surveyor or civil
39 engineer to cooperate with the governmental agency in matters of
40 maps, field notes, and other pertinent records. Monuments set to

1 mark the limiting lines of highways, roads, streets or
2 right-of-way or easement lines shall not be deemed adequate for
3 this purpose unless specifically noted on the corner record or
4 record of survey of the improvement works with direct ties in
5 bearing or azimuth and distance between these and other
6 monuments of record.

7 (c) The decision to file either the required corner record or a
8 record of survey pursuant to subdivision (b) shall be at the
9 election of the licensed land surveyor or registered civil engineer
10 submitting the document.

11 *SEC. 4. Section 9610 of the Business and Professions Code is*
12 *repealed.*

13 ~~9610. The bureau shall do both of the following:~~

14 ~~(a) Conduct a comprehensive study of the need for the~~
15 ~~regulation of proprietary employees of religious corporations,~~
16 ~~churches, religious societies, and religious denominations.~~

17 ~~(b) Report to the department and the Joint Committee on~~
18 ~~Boards, Commissions, and Consumer Protection on or before~~
19 ~~September 1, 2004, on the matter specified in subdivision (a).~~

20 *SEC. 5. Section 9882 of the Business and Professions Code is*
21 *amended to read:*

22 9882. (a) There is in the Department of Consumer Affairs a
23 Bureau of Automotive Repair under the supervision and control
24 of the director. The duty of enforcing and administering this
25 chapter is vested in the chief who is responsible to the director.
26 The director may adopt and enforce those rules and regulations
27 that he or she determines are reasonably necessary to carry out
28 the purposes of this chapter and declaring the policy of the
29 bureau, including a system for the issuance of citations for
30 violations of this chapter as specified in Section 125.9. These
31 rules and regulations shall be adopted pursuant to Chapter ~~4.5~~ 3.5
32 (commencing with Section ~~11371~~) 11340) of Part 1 of Division 3
33 of Title 2 of the Government Code.

34 (b) In 2003 and every four years thereafter, the Joint
35 ~~Legislative Sunset Review~~ Committee on Boards, Commissions,
36 ~~and Consumer Protection~~ shall hold a public hearing to receive
37 testimony from the Director of Consumer Affairs and the bureau.
38 In those hearings, the bureau shall have the burden of
39 demonstrating a compelling public need for the continued
40 existence of the bureau and its regulatory program, and that its

function is the least restrictive regulation consistent with the public health, safety, and welfare. The committee shall evaluate and review the effectiveness and efficiency of the bureau based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and recommendations as specified in Section 473.5. The bureau shall prepare an analysis and submit a report to the committee as specified in Section 473.2.

SEC. 6. Section 9884.7 of the Business and Professions Code is amended to read:

9884.7. (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may refuse to validate, or may invalidate temporarily or permanently, the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Causing or allowing a customer to sign any work order ~~which~~ *that* does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.

(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(4) Any other conduct which constitutes fraud.

(5) Conduct constituting gross negligence.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

(8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of automobiles.

1 (9) Having repair work done by someone other than the dealer
2 or his or her employees without the knowledge or consent of the
3 customer unless the dealer can demonstrate that the customer
4 could not reasonably have been notified.

5 (10) Conviction of a violation of Section 551 of the Penal
6 Code.

7 Upon refusal to validate a registration, the director shall notify
8 the applicant thereof, in writing, by personal service or mail
9 addressed to the address of the applicant set forth in the
10 application, and the applicant shall be given a hearing under
11 Section 9884.12 if, within 30 days thereafter, he or she files with
12 the bureau a written request for hearing, otherwise the refusal is
13 deemed affirmed.

14 (b) Except as provided for in subdivision (c), if an automotive
15 repair dealer operates more than one place of business in this
16 state, the director pursuant to subdivision (a) ~~shall only refuse to~~
17 ~~validate, or shall only invalidate temporarily or permanently the~~
18 registration of the specific place of business which has violated
19 any of the provisions of this chapter. This violation, or action by
20 the director, shall not affect in any manner the right of the
21 automotive repair dealer to operate his or her other places of
22 business.

23 (c) Notwithstanding subdivision (b), the director may ~~refuse to~~
24 ~~validate, or may~~ invalidate temporarily or permanently, the
25 registration for all places of business operated in this state by an
26 automotive repair dealer upon a finding that the automotive
27 repair dealer has, or is, engaged in a course of repeated and
28 willful violations of this chapter, or regulations adopted pursuant
29 to it.

30 *SEC. 7. Section 10232 of the Business and Professions Code*
31 *is amended to read:*

32 10232. (a) Except as otherwise expressly provided, Sections
33 10232.2, 10232.25, 10233, and 10236.6 are applicable to every
34 real estate broker who intends or reasonably expects in a
35 successive 12 months to do any of the following:

36 (1) Negotiate a combination of 10 or more of the following
37 transactions pursuant to subdivision (d) or (e) of Section 10131
38 or Section 10131.1 in an aggregate amount of more than one
39 million dollars (\$1,000,000):

1 (A) Loans secured directly or collaterally by liens on real
2 property or on business opportunities as agent for another or
3 others.

4 (B) Sales or exchanges of real property sales contracts or
5 promissory notes secured directly or collaterally by liens on real
6 property or on business opportunities as agent for another or
7 others.

8 (C) Sales or exchanges of real property sales contracts or
9 promissory notes secured directly or collaterally by liens on real
10 property as the owner of those notes or contracts.

11 (2) Make collections of payments in an aggregate amount of
12 two hundred fifty thousand dollars (\$250,000) or more on behalf
13 of owners of promissory notes secured directly or collaterally by
14 liens on real property, owners of real property sales contracts, or
15 both.

16 (3) Make collections of payments in an aggregate amount of
17 two hundred fifty thousand dollars (\$250,000) or more on behalf
18 of obligors of promissory notes secured directly or collaterally by
19 liens on real property, lenders of real property sales contracts, or
20 both.

21 Persons under common management, direction, or control in
22 conducting the activities enumerated above shall be considered
23 as one person for the purpose of applying the above criteria.

24 (b) The negotiation of a combination of two or more new
25 loans and sales or exchanges of existing promissory notes and
26 real property sales contracts of an aggregate amount of more than
27 two hundred fifty thousand dollars (\$250,000) in any three
28 successive months or a combination of five or more new loans
29 and sales or exchanges of existing promissory notes and real
30 property sales contracts of an aggregate amount of more than five
31 hundred thousand dollars (\$500,000) in any successive six
32 months shall create a rebuttable presumption that the broker
33 intends to negotiate new loans and sales and exchanges of an
34 aggregate amount that will meet the criteria of subdivision (a).

35 (c) In determining the applicability of Sections 10232.2,
36 10232.25, 10233, and 10236.6, loans or sales negotiated by a
37 broker, or for which a broker collects payments or provides other
38 servicing for the owner of the note or contract, shall not be
39 counted in determining whether the broker meets the criteria of
40 subdivisions (a) and (b) if any of the following apply:

1 (1) The lender or purchaser is any of the following:

2 (A) The Federal National Mortgage Association, the
3 Government National Mortgage Association, the Federal Home
4 Loan Mortgage Corporation, the Federal Housing
5 Administration, and the United States Department of Veterans
6 Affairs.

7 (B) A bank or subsidiary thereof, bank holding company or
8 subsidiary thereof, trust company, savings bank or savings and
9 loan association or subsidiary thereof, savings bank or savings
10 association holding company or subsidiary thereof, credit union,
11 industrial bank or industrial loan company, ~~commercial finance~~
12 ~~lender, personal property broker, consumer~~ finance lender, or
13 insurer doing business under the authority of, and in accordance
14 with, the laws of this state, any other state, or the United States
15 relating to banks, trust companies, savings banks or savings
16 associations, credit unions, industrial banks or industrial loan
17 companies, commercial finance lenders, or insurers, as evidenced
18 by a license, certificate, or charter issued by the United States or
19 a state, district, territory, or commonwealth of the United States.

20 (C) Trustees of a pension, profit-sharing, or welfare fund, if
21 the pension, profit-sharing, or welfare fund has a net worth of not
22 less than fifteen million dollars (\$15,000,000).

23 (D) A corporation with outstanding securities registered under
24 Section 12 of the Securities Exchange Act of 1934 or a wholly
25 owned subsidiary of that corporation.

26 (E) A syndication or other combination of any of the entities
27 specified in subparagraph (A), (B), (C), or (D) that is organized
28 to purchase the promissory note.

29 (F) The California Housing Finance Agency or a local housing
30 finance agency organized under the Health and Safety Code.

31 (G) A licensed residential mortgage lender or servicer acting
32 under the authority of that license.

33 (H) An institutional investor that issues mortgage-backed
34 securities, as specified in paragraph (11) of subdivision (i) of
35 Section 50003 of the Financial Code.

36 (I) A licensed real estate broker selling all or part of the loan,
37 the note, or the contract to a lender or purchaser specified in
38 subparagraphs (A) to (H), inclusive.

39 (2) The loan or sale is negotiated, or the loan or contract is
40 being serviced for the owner, under authority of a permit issued

1 pursuant to applicable provisions of the Corporate Securities Law
2 of 1968 (Division 1 (commencing with Section 25000) of Title 4
3 of the Corporations Code).

4 (3) The transaction is subject to the requirements of Article 3
5 (commencing with Section 2956) of Chapter 2 of Title 14 of Part
6 4 of Division 3 of the Civil Code.

7 (d) If two or more real estate brokers who are not under
8 common management, direction, or control cooperate in the
9 negotiation of a loan or the sale or exchange of a promissory note
10 or real property sales contract and share in the compensation for
11 their services, the dollar amount of the transaction shall be
12 allocated according to the ratio that the compensation received by
13 each broker bears to the total compensation received by all
14 brokers for their services in negotiating the loan or sale or
15 exchange.

16 (e) A real estate broker who meets any of the criteria of
17 subdivision (a) or (b) shall notify the department in writing
18 within 30 days after that determination is made.

19 *SEC. 8. Section 10232.4 of the Business and Professions*
20 *Code is amended to read:*

21 10232.4. (a) In making a solicitation to a particular person
22 and in negotiating with that person to make a loan secured by
23 real property or to purchase a real property sales contract or a
24 note secured by a deed of trust, a real estate broker shall deliver
25 to the person solicited the applicable completed statement
26 described in Section 10232.5 as early as practicable before he or
27 she becomes obligated to make the loan or purchase and, except
28 as provided in subdivision (c), before the receipt by or on behalf
29 of the broker of any funds from that person. The statement shall
30 be signed by the prospective lender or purchaser and by the real
31 estate broker, or by a real estate salesperson licensed to the
32 broker, on the broker's behalf. When so executed, an exact copy
33 shall be given to the prospective lender or purchaser, and the
34 broker shall retain a true copy of the executed statement for a
35 period of three years.

36 (b) The requirement of delivery of a disclosure statement
37 pursuant to subdivision (a) shall not apply with respect to the
38 following persons:

39 (1) The prospective purchaser of a security offered under
40 authority of a permit issued pursuant to applicable provisions of

1 the Corporate Securities Law of 1968 (Division 1 (commencing
2 with Section 25000) of Title 4 of the Corporations Code) that
3 require that each prospective purchaser of a security be given a
4 prospectus or other form of disclosure statement approved by the
5 department issuing the permit.

6 (2) The seller of real property who agrees to take back a
7 promissory note of the purchaser as a method of financing all or
8 a part of the purchase of the property.

9 (3) The prospective purchaser of a security offered pursuant to
10 and in accordance with a regulation duly adopted by the
11 Commissioner of Corporations granting an exemption from
12 qualification under the Corporate Securities Law of 1968 for the
13 offering if one of the conditions of the exemption is that each
14 prospective purchaser of the security be given a disclosure
15 statement prescribed by the regulation before the prospective
16 purchaser becomes obligated to purchase the security.

17 (4) A prospective lender or purchaser, if that lender or
18 purchaser is any of the following:

19 (A) The United States or any state, district, territory, or
20 commonwealth thereof, or any city, county, city and county,
21 public district, public authority, public corporation, public entity,
22 or political subdivision of a state, district, territory, or
23 commonwealth of the United States, or any agency or corporate
24 or other instrumentality of any one or more of the foregoing,
25 including the Federal National Mortgage Association, the
26 Government National Mortgage Association, the Federal Home
27 Loan Mortgage Corporation, the Federal Housing
28 Administration, and the Veteran's Administration.

29 (B) Any bank or subsidiary thereof, bank holding company or
30 subsidiary thereof, trust company, savings bank or savings and
31 loan association or subsidiary thereof, savings bank or savings
32 association holding company or subsidiary thereof, credit union,
33 industrial bank or industrial loan company, ~~personal property~~
34 ~~broker, commercial finance lender, consumer finance lender, or~~
35 insurance company doing business under the authority of, and in
36 accordance with, the laws of this state, any other state, or of the
37 United States relating to banks, trust companies, savings banks or
38 savings associations, credit unions, industrial banks or industrial
39 loan companies, commercial finance lenders, or insurance
40 companies, as evidenced by a license, certificate, or charter

1 issued by the United States or any state, district, territory, or
2 commonwealth of the United States.

3 (C) Trustees of pension, profitsharing, or welfare fund, if the
4 pension, profitsharing, or welfare fund has a net worth of not less
5 than fifteen million dollars (\$15,000,000).

6 (D) Any corporation with outstanding securities registered
7 under Section 12 of the Securities Exchange Act of 1934 or any
8 wholly owned subsidiary of that corporation.

9 (E) Any syndication or other combination of any of the entities
10 specified in subparagraph (A), (B), (C), or (D) which is
11 organized to purchase the promissory note.

12 (F) A licensed real estate broker engaging in the business of
13 selling all or part of the loan, note, or contract to a lender or
14 purchaser to whom no disclosure is required pursuant to this
15 subdivision.

16 (G) A licensed residential mortgage lender or servicer when
17 acting under the authority of that license.

18 (c) When the broker has custody of funds of a prospective
19 lender or purchaser which were received and are being
20 maintained with the express permission of the owner and in
21 accordance with law, and the broker retains the funds in an
22 escrow depository or a trust fund account pending receipt of the
23 owner's express written instructions to disburse the funds for a
24 loan or purchase, the broker shall cause the disclosure statement
25 to be delivered to the owner and shall obtain the owner's written
26 consent to the proposed disbursement before making the
27 disbursement. Unless the broker has a written agreement with the
28 owner as provided in Section 10231.1, the broker shall transmit
29 to the owner not later than 25 days after receipt, all funds then in
30 the broker's custody for which the owner has not given written
31 instructions authorizing disbursement.

32 *SEC. 9. Section 19161 of the Business and Professions Code*
33 *is repealed.*

34 ~~19161. (a) All mattresses and box springs manufactured for~~
35 ~~sale in this state shall be fire retardant. The bureau shall adopt~~
36 ~~regulations no later than January 1, 2004, requiring that fire~~
37 ~~retardant mattresses and box springs meet a resistance to~~
38 ~~open-flame test that uses a pass or fail performance criteria based~~
39 ~~on a test method developed by the bureau or that is based on~~
40 ~~ASTME 1590. If the bureau concludes that other bedding~~

1 ~~contributes to mattress fires, the regulations shall require the~~
2 ~~other bedding to be flame retardant under the resistance to~~
3 ~~open-flame test. If feasible, the bureau's regulations shall permit~~
4 ~~a manufacturer to comply with the resistance to open-flame test~~
5 ~~by testing a small scale version of its product. In developing~~
6 ~~these regulations, the bureau may contract, cooperate, or~~
7 ~~otherwise share resources with other government agencies,~~
8 ~~private organizations, or independent contractors that it considers~~
9 ~~appropriate for purposes of reviewing test criteria and methods,~~
10 ~~equipment specifications, and other relevant subjects. These~~
11 ~~regulations shall become inoperative upon the effective date of~~
12 ~~any federal law or regulation establishing an open-flame~~
13 ~~resistance standard for these products. The bureau shall submit a~~
14 ~~report to the Legislature on or before January 1, 2004,~~
15 ~~summarizing its regulatory findings.~~

16 (b) ~~Requirements for flame resistant mattresses, box springs,~~
17 ~~or other bedding products shall not apply to any hotel, motel, bed~~
18 ~~and breakfast, inn, or similar transient lodging establishment that~~
19 ~~has an automatic fire extinguishing system that conforms to the~~
20 ~~specifications established in Section 904.1 of Title 24 of the~~
21 ~~California Code of Regulations.~~

22 (c) ~~All seating furniture sold or offered for sale by an importer,~~
23 ~~manufacturer, or wholesaler for use in this state, including any~~
24 ~~seating furniture sold to or offered for sale for use in a hotel,~~
25 ~~motel, or other place of public accommodation in this state, and~~
26 ~~reupholstered furniture to which filling materials are added, shall~~
27 ~~be fire retardant and shall be labeled in a manner specified by the~~
28 ~~bureau.~~

29 (d) ~~"Fire retardant," as used in this section, means a product~~
30 ~~that meets the regulations adopted by the bureau. This does not~~
31 ~~include furniture used exclusively for the purpose of physical~~
32 ~~fitness and exercise.~~

33 **SEC. 3.**

34 *SEC. 10.* Section 22351.5 of the Business and Professions
35 Code is amended to read:

36 22351.5. (a) At the time of filing the initial certificate of
37 registration, the registrant shall also submit a completed Request
38 for Live Scan form confirming fingerprint submission to the
39 Department of Justice and the Federal Bureau of Investigation, in
40 order to verify that the registrant has not been convicted of a

1 felony. The clerk shall utilize the Subsequent Arrest Notification
2 Contract provided by the Department of Justice for notifications
3 subsequent to the initial certificate of registration.

4 (b) If, after receiving the results of the Request for Live Scan,
5 the clerk is advised that the registrant has been convicted of a
6 felony, the presiding judge of the superior court of the county in
7 which the certificate of registration is maintained is authorized to
8 review the criminal record and, unless the registrant is able to
9 produce a copy of a certificate of rehabilitation, expungement, or
10 pardon, as specified in paragraph (2) of subdivision (a) of Section
11 22351, notify the registrant that the registration is revoked. An
12 order to show cause for contempt may be issued and served upon
13 any person who fails to surrender a registered process server
14 identification card after a notice of revocation.

15 ~~SEC. 4.~~

16 *SEC. 11.* Section 22355 of the Business and Professions Code
17 is amended to read:

18 22355. (a) The county clerk shall maintain a register of
19 process servers and assign a number and issue an identification
20 card to each process server. The county clerk shall issue a
21 temporary identification card, for no additional fee, to applicants
22 who are required to submit Request for Live Scan forms for
23 background checks to the Federal Bureau of Investigation and the
24 Department of Justice. This card shall be valid for 120 days. If
25 clearance is received from the Federal Bureau of Investigation
26 and the Department of Justice within 120 days, the county clerk
27 shall immediately issue a permanent identification card to the
28 applicant. Upon request of the applicant, the permanent
29 identification card shall be mailed to the applicant at his or her
30 address of record. Upon renewal of a certificate of registration,
31 the same number shall be assigned, provided there is no lapse in
32 the period of registration.

33 (b) The temporary and permanent identification cards shall be
34 $3\frac{3}{8}$ inches by $2\frac{1}{4}$ inches and shall contain at the top the title,
35 “Registered Process Server,” followed by the registrant’s name,
36 address, registration number, date of expiration, and county of
37 registration. In the case of a natural person, it shall also contain a
38 photograph of the registrant in the lower left corner.

39 *SEC. 12.* Section 44024.5 of the Health and Safety Code is
40 amended to read:

1 44024.5. (a) The department shall compile and maintain
2 statistical and emissions profiles of motor vehicles that are
3 subject to the motor vehicle inspection program. The department
4 may use data from any source, including remote sensing data and
5 other motor vehicle inspection program data, to develop and
6 confirm the validity of the profiles.

7 (b) The department, in cooperation with the state board, shall
8 perform periodic analyses of the statistical and emissions profiles
9 created pursuant to subdivision (a). The department and the state
10 board, in consultation with the Inspection and Maintenance
11 Review Committee, may determine that, in addition to the
12 vehicles excepted pursuant to Section 44011, certain other motor
13 vehicles may be excepted from the biennial certification
14 requirements of this chapter without significantly compromising
15 the emission reduction objectives set forth in the State
16 Implementation Plan (SIP).

17 (c) The department may conduct a pilot program to except
18 from the biennial certification requirement those vehicles that
19 may be jointly determined by the department and the state board,
20 after consultation with the Inspection and Maintenance Review
21 Committee, to warrant exception. The department shall provide
22 written notification to the Legislature specifying the number of
23 vehicles to be exempted as well as the geographic location and
24 duration of the pilot program not less than 30 days prior to the
25 implementation of the pilot program. The department shall
26 submit the results of the pilot program to the state board and the
27 Inspection and Maintenance Review Committee for review.
28 Subject to the approval of the United States Environmental
29 Protection Agency as an amendment to the SIP, the department
30 may establish the exception program as a permanent program.

31 ~~(d) As part of the pilot program, on or before June 30, 2000,~~
32 ~~the department shall evaluate standards for the operation of~~
33 ~~remote sensing equipment, evaluate the need to certify~~
34 ~~individuals who operate that equipment, and evaluate the need to~~
35 ~~license entities that provide remote sensing services under the~~
36 ~~direction of the department.~~

37 ~~(e)~~ For vehicles four model years old or less, the department
38 shall use test data generated pursuant to Section 44014.7 to
39 develop statistical and emissions profiles. The department may
40 use data from any source, including remote sensing data,

1 warranty repair and recall data, and other motor vehicle
2 inspection program data, to develop and confirm the validity of
3 the data. If the department and state board jointly determine that
4 the emissions from a class of motor vehicles would potentially
5 compromise the emission reduction objectives set forth in the
6 SIP, the state board shall consider appropriate corrective action,
7 including, but not limited to, recall pursuant to Section 43105.

8 *SEC. 13. Section 44062.1 of the Health and Safety Code is*
9 *amended to read:*

10 44062.1. (a) The department shall offer a repair assistance
11 program through entities authorized to perform referee functions.

12 (b) (1) The repair assistance program shall be available to the
13 following eligible individuals:

14 (A) An individual who has a maximum income level of 200
15 percent of the federal poverty level, as published quarterly in the
16 Federal Register by the Department of Health and Human
17 Services, and who is either or both of the following:

18 (i) The owner of a motor vehicle that has failed a smog check
19 inspection.

20 (ii) The owner of a motor vehicle who was issued a notice to
21 correct for an alleged violation of Section 27153 or 27153.5 of
22 the Vehicle Code involving that vehicle, if the vehicle subject to
23 that notice has failed a smog check inspection subsequent to
24 receiving the notice.

25 On and after January 1, 2009, the maximum income level
26 prescribed for this subparagraph shall be set at 185 percent of the
27 federal poverty level, as published quarterly in the Federal
28 Register by the United States Department of Health and Human
29 Services.

30 (B) An individual who is the owner of a motor vehicle that has
31 failed a smog check inspection and is directed to a test-only
32 facility pursuant to Section 44010.5 or 44014.7. If the department
33 determines that applications for repair assistance exceed the
34 amount of funds available, to the maximum extent possible,
35 applications from low-income motor vehicle owners shall be
36 given priority over other applications.

37 (2) The department shall offer repair cost assistance, funded
38 by the High Polluter Repair or Removal Account in the Vehicle
39 Inspection and Repair Fund created pursuant to subdivision (a) of
40 Section 44091, to individuals based on the cost-effectiveness and

1 air quality benefit of the needed repair. Repair assistance may
2 include retesting costs and the costs of repairs to remedy the
3 violation of Section 27153 or 27153.5 of the Vehicle Code.

4 (3) An applicant for repair assistance shall file an application
5 on a form prescribed by the department and shall certify under
6 penalty of perjury that the applicant meets the applicable
7 eligibility standards.

8 (4) Verification of income eligibility shall be based on at least
9 one form of documentation, as determined by the department,
10 including, but not limited to, (A) an income tax return, (B) an
11 employment warrant, or (C) a form of public assistance
12 verification.

13 (c) The repair assistance program shall be funded by the High
14 Polluter Repair or Removal Account.

15 (d) Repairs to motor vehicles that fail smog check inspections
16 and are subsidized by the state through the program shall be
17 performed at a repair station licensed and certified pursuant to
18 Sections 44014 and 44014.2. Repair shall be based upon a
19 preapproved list of repairs for cost-effective emission reductions
20 or repairs to remedy a violation of Section 27153 or 27153.5 of
21 the Vehicle Code.

22 (e) The qualified low-income motor vehicle owner receiving
23 repair assistance pursuant to this section shall contribute a
24 copayment, as determined by the department as specified in
25 Section 44017.1, either in cash, or in emissions-related partial
26 repairs as verified by a test-only station pursuant to paragraph (2)
27 of subdivision (c) of Section 44015, or a combination thereof.
28 For an owner of a motor vehicle described in subparagraph (B) of
29 paragraph (1) of subdivision (b), the department shall impose a
30 copayment at least equivalent to the amount imposed on a
31 low-income individual receiving assistance under this section. If
32 the repair cost exceeds the applicable repair cost limit, the
33 department shall inform a motor vehicle owner of all options for
34 compliance at the time of testing and repair.

35 (f) The department may increase its contribution toward the
36 repair of a motor vehicle under this program in excess of the
37 amount authorized for the repair of a high-polluter pursuant to
38 paragraph (1) of subdivision (b) of Section 44094, if the
39 department determines that the expenditure is cost-effective.

(g) Notwithstanding subparagraph (A) of subdivision (b), the department may increase the maximum income level of a low-income motor vehicle owner under this program from the amount specified in this section, not to exceed 225 percent of the federal poverty level, if the department determines that the increase is capable of being supported within existing budget allocations.

(h) The department shall collect data from the program to provide information on how to improve the program. Data collection shall include all of the following:

(1) The number of motor vehicle owners that are eligible for repair assistance.

(2) The number of eligible motor vehicle owners that use repair assistance funds.

(3) The potential for fraud.

(4) The average repair bills.

(5) The types of repairs being done.

(6) The amount of partial repairs done prior to receipt of repair assistance.

(7) The emissions benefits of providing repair assistance.

~~(i) The department shall collect data and develop information and shall report to the Legislature on or before April 1, 1999, on eligibility criteria, program participation, the cost of vehicle repairs, and the funding resources needed to implement the program.~~

~~(j)~~ For purposes of this section, “low-income motor vehicle owner” means a person whose income does not exceed 200 percent of the federal poverty level.

~~SEC. 5.~~

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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